

partnership items of the partner or the partner's spouse.

(k) *Nonrequesting spouse's notice and opportunity to participate in administrative proceedings*—(1) *In general.* When the Secretary receives a request for relief from the Federal income tax liability resulting from the operation of community property law under this section, the Secretary must send a notice to the nonrequesting spouse's last known address that informs the nonrequesting spouse of the requesting spouse's request for relief. The notice must provide the nonrequesting spouse with an opportunity to submit any information for consideration in determining whether to grant the requesting spouse relief from the Federal income tax liability resulting from the operation of community property law. The Secretary will share with each spouse the information submitted by the other spouse, unless the Secretary determines that the sharing of this information will impair tax administration.

(2) *Information submitted.* The Secretary will consider all of the information (as relevant to the particular relief provision) that the nonrequesting spouse submits in determining whether to grant relief from the Federal income tax liability resulting from the operation of community property law under this section.

[T.D. 9074, 68 FR 41070, July 10, 2003]

§ 1.66-5 Effective date.

Sections 1.66-1 through 1.66-4 are applicable on July 10, 2003. In addition, § 1.66-4 applies to any request for relief filed prior to July 10, 2003, for which the Internal Revenue Service has not issued a preliminary determination as of July 10, 2003.

[T.D. 9074, 68 FR 41070, July 10, 2003]

§ 1.67-1T 2-percent floor on miscellaneous itemized deductions (temporary).

(a) *Type of expenses subject to the floor*—(1) *In general.* With respect to individuals, section 67 disallows deductions for miscellaneous itemized deductions (as defined in paragraph (b) of this section) in computing taxable income (*i.e.*, so-called “below-the-line”

deductions) to the extent that such otherwise allowable deductions do not exceed 2 percent of the individual's adjusted gross income (as defined in section 62 and the regulations thereunder). Examples of expenses that, if otherwise deductible, are subject to the 2-percent floor include but are not limited to—

(i) Unreimbursed employee expenses, such as expenses for transportation, travel fares and lodging while away from home, business meals and entertainment, continuing education courses, subscriptions to professional journals, union or professional dues, professional uniforms, job hunting, and the business use of the employee's home.

(ii) Expenses for the production or collection of income for which a deduction is otherwise allowable under section 212 (1) and (2), such as investment advisory fees, subscriptions to investment advisory publications, certain attorneys' fees, and the cost of safe deposit boxes,

(iii) Expenses for the determination of any tax for which a deduction is otherwise allowable under section 212(3), such as tax counsel fees and appraisal fees, and

(iv) Expenses for an activity for which a deduction is otherwise allowable under section 183.

See section 62 with respect to deductions that are allowable in computing adjusted gross income (*i.e.*, so-called “above-the-line” deductions).

(2) *Other limitations.* Except as otherwise provided in paragraph (d) of this section, to the extent that any limitation or restriction is placed on the amount of a miscellaneous itemized deduction, that limitation shall apply prior to the application of the 2-percent floor. For example, in the case of an expense for food or beverages, only 80 percent of which is allowable as a deduction because of the limitations provided in section 274(n), the otherwise deductible 80 percent of the expense is treated as a miscellaneous itemized deduction and is subject to the 2-percent limitation of section 67.

(b) *Definition of miscellaneous itemized deductions.* For purposes of this section,